

REMARKS

This Application has been carefully reviewed in light of the Office Action issued October 16, 2008. Claims 1-30 are pending in this Application. Claims 7, 8, and 19 are allowed. Claims 1, 6, 9-11, 16, and 20-26 are rejected. Claims 2-5, 12-15, 17, 18, and 27-30 are allowable subject to being placed in independent form. Applicant respectfully requests reconsideration and favorable action in this Application.

Claims 1, 6, 9-11, 16, 20, and 21-26 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,463,616 issued to Kruse et al. Independent Claims 1, 11, 16, 21, and 26 recite in general an ability to determine pauses in encoded information of a packet flow and adjust fragmentation of packets in the packet flow in response to the encoded information including a pause. By contrast, the Kruse, et al. patent makes no mention of any pauses included within encoded information carried in a packet flow let alone an ability to detect a pause in the encoded information and adjust fragmentation of packets in the packet flow in response to the encoded information including a pause as required by the claimed invention. The Examiner has not cited any language in the Kruse, et al. patent where encoded information includes a pause as provided in the claimed invention. The Kruse, et al. patent merely discloses the ability to fragment voice packets in order to ensure that sufficient bandwidth exists to transmit a higher-priority non-voice packet, where the non-voice packet is transmitted at regular intervals. Thus, a voice packet is fragmented such that a smaller fragmentation of the voice packet can be transmitted in the bandwidth in excess of that required by the higher-priority non-voice packet. (See col. 3, lines 9-28, of the Kruse patent). The Kruse, et al. patent discloses the ability to

calculate the number of bytes of the voice packet that can be transmitted up to the time a higher-priority non-voice packet is scheduled to be transmitted. If a portion of the voice packet cannot be transmitted before the transmission of the non-voice packet, then the voice data packet is fragmented. (See Col 13, lines 19-38, of the Kruse patent). Therefore, fragmentation is not determined by whether any encoded information includes a pause but rather it is determined by the bandwidth required by the higher-priority non-voice packets and the size of the lower-priority voice packet to be transmitted.

Accordingly, the Kruse, et al. patent is not capable of adjusting fragmentation of packets in accordance with a pause being included in the encoded data as required by the claimed invention. As a result, the Kruse, et al. patent does not use any information from within its encoded data to adjust its packet size let alone using a pause included in encoded information as provided in the claimed invention. Therefore, Applicant respectfully submits that Claims 1-6, 9-18, and 20-30 are not anticipated by the Kruse, et al. patent.

Applicant notes with appreciation the allowance of Claims 7, 8, and 19.

Applicant notes with appreciation the allowability of Claims 2-5, 12-15, 17, 18, and 27-30 if placed into appropriate independent form. Applicant respectfully defers placing these claims into independent form pending a final disposition of the associated independent claims.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

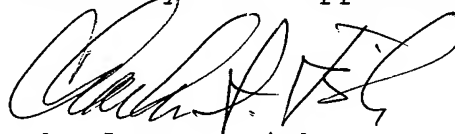
If the Examiner feels that a telephonic conference is needed to clear up matters addressed herein, the undersigned attorney stands ready to discuss this Application at the convenience of the Examiner.

The Commissioner is hereby authorized to charge any other fees or credit any overpayments associated with this Application to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

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